

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:) Bankruptcy No. 20-10334-TPA
JOSEPH MARTIN THOMAS,)
Debtor) Chapter 11
JOSEPH MARTIN THOMAS,)
Movant) Related to Doc No. 283
v.)
NO RESPONDENT) Date and Time of Hearing:
) March 25, 2021 at 9:30 a.m.

**RESPONSE TO DEBTOR'S MOTION TO APPROVE ENTRY INTO NEW
COMMERCIAL LEASE**

AND NOW, comes the Official Creditors' Committee ("Committee") for Tri-State Pain Institute, LLC ("Tri-State"), an affiliate of the Debtor in a separate, related proceeding for reorganization under Chapter 11 at Case No. 20-10049-TPA, by and through the Committee's counsel, Knox McLaughlin Gornall & Sennett, P.C., as follows:

1. The Committee has no objection to the Debtor entering into a lease with Medical Associates of Erie. However, the proposed lease does not appear to have an early termination provision.
2. The Committee requests that the proposed lease be amended to include an early termination clause without penalty to the Debtor if the clause is exercised.
3. Otherwise, if the Plan fails for any reason, the landlord would have an administrative claim for the full amount of rent under the lease. A termination provision would at least cap the potential damages if the Debtor is unable to live up to the terms of the lease. Under the termination clause, the Debtor would have the right to terminate the lease, without

penalty, by giving the landlord notice of termination. Termination would become effective a certain number of days after the notice is given.

4. Without such a provision in the lease, payment of the claims of the unsecured creditors would be jeopardized unnecessarily should Dr. Thomas fail to make the lease payments for any reason and cause the landlord to declare the lease in default and to accelerate the total amount of rent due under the lease.

WHEREFORE, the Committee requests that the Motion be denied unless the lease is amended to include an early termination without penalty provision; and, that the Committee have such other and further relief as is reasonable and just.

Respectfully submitted,

KNOX McLAUGHLIN GORNALL &
SENNETT, P.C.
Attorneys for the Official Committee of Unsecured
Creditors for Tri-State Pain Institute, LLC

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on March 18, 2021, a copy of the Committee's Response to Debtor's Motion to Approve Entry into New Commercial Lease was served by first class, United States mail, postage pre-paid, and/or electronic service, as follows:

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Respectfully submitted,

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